

U.S. COURTS

IN THE UNITED STATES BANKRUPTCY COURT FOR THE DISTRICT OF IDAHO

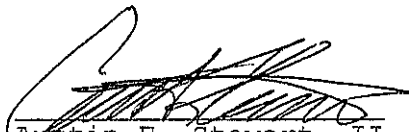
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REC'D _____ FILED *ll*
CAMERON S. BURKE
CLERK, IDAHO

IN RE:)	
)	
SAWTOOTH ENTERPRISES, INC.)	CHAPTER 11
)	
	)	CASE NO. 96-03050
)	
	)	EXHIBIT "A" TO MOTION TO
	)	LIFT STAY AND TO TRANSFER
	)	THIRD-PARTY PROPERTY IN
<u>DEBTOR(S)</u>	)	DEBTOR'S POSSESSION

TO THE ABOVE-NAMED COURT, THE DEBTOR, AND U.S. TRUSTEE:

PLEASE TAKE NOTICE, that Exhibit "A" to the MOTION TO LIFT STAY AND TO TRANSFER THIRD-PARTY PROPERTY IN DEBTOR'S POSSESSION filed by the undersigned on December 10, 1996, a copy of which is attached, was inadvertently omitted from the originally filed MOTION TO LIFT STAY, etc., and is now hereby filed and served and made a part thereof.

Dated 12-11-96.


Austin E. Stewart, II
PO Box 6097
Ketchum, ID 83340
(208) 726-2009

u

Agreement (Business)**BANK**

Branch Name

Main

Officer's Initials

Date

February 28, 1996

Buyer

Austin E. Stewart, II

Street Address, Suite or Box No.

291 3rd Ave. S.

City

Retchum

County

Blaine

State

Idaho

the undersigned Buyer, hereby buys on the terms and conditions below and on the reverse side hereof, the following described merchandise, delivery and acceptance of which in good order is hereby acknowledged by Buyer, and Buyer (as debtor) acknowledges that Seller (as Secured Party) has retained and taken a security interest therein.

MERCHANDISE BEING PURCHASED:

TITLE VEHICLES	Model Year	Make	Model/Type	Identification Number	Color	New/Used	No. of Cals.
OTHER MERCHANDISE	List Any Option Equipment or Accessories:						
	Quantity	New/Used	Make	Model	Serial Number/Description of Articles	Cash Price	
	See Attached List					\$14,448.62	

Promise To Pay and Payments: Buyer agrees to make payments at West One Bank, Idaho, N. A. in Twin Falls, Idaho. In consideration for a loan, extension of credit, or other such accommodations, Buyer promises to pay \$ 11,506.28, plus an interest charge of fifteen per cent per annum figured each day on the unpaid balance, along with any other finance charges, in 12 uninterrupted payments of \$ 1,039.81 each due on the 1st day of each month beginning April 1, 1996 or payable as follows:

Insurance: Credit life insurance and disability insurance are not required to obtain credit, and will not be provided unless Buyer signs and agrees to pay the additional cost.

Type	Premium	Insured Names
<input type="checkbox"/> Credit Life		I want credit life insurance for
<input type="checkbox"/> Credit Disability		I want credit disability for
<input type="checkbox"/> Joint Credit Life Insur.		I want joint credit life insurance for

The Buyer also agrees to make a larger payment of \$ _____ due _____

Here Is An Itemization of The Amount Financed And Explanation of Payments:

- Cash Price \$ 14,448.62
- Cash Downpayment \$ 2,948.34
Trade in
\$ _____ value
\$ _____ amount owed
to _____
- Net Trade-in \$ _____
- Other \$ _____
- Total Downpayment (2+3+4) (\$ 2,948.34)
- Unpaid Balance of Cash Price (1-5) \$ 11,500.28
- Sales Tax \$ _____
- Filing Fees \$ 6.00
- Credit Life \$ _____
- Other Insur. \$ _____
- Loan Fees \$ _____
- Other \$ _____
- Total Financed \$ 11,506.28

Explanation of Simple Interest: Interest will accumulate each day on the unpaid balance of the loan. The interest charge is figured on the assumption that all payments will be made as scheduled. Interest charges will increase if payments are late and will decrease if payments are early. Buyer agrees that adjustments may be made to the final payment to reflect those charges.

Prepayments: The buyer may prepay what is owed in full or in part at any time. If the amount financed is more than \$75.00, there will be a minimum charge of \$7.50.

Explanation of Variable Rates: If the interest rate may vary, the interest rate is determined by the explanation marked below:

☐ If the interest rate changes, the total of payments may change. If the rate decreases, the loan may be repaid with fewer payments at the same amount and time scheduled above. If the rate increases, Buyer agrees to continue making more payments at the amount and time scheduled above until Seller is repaid. The amount of payments may also be increased so that if payments are made on time, the loan will be repaid in no more than one year after the original final payment date.

THE TERMS AND CONDITIONS APPEARING ON THE BACK HEREOF ARE A PART OF THIS AGREEMENT.

Signed and delivered on the day and year first above written. The undersigned acknowledges receipt of a copy of this Agreement.

B S & R Equipment

Seller

By Timothy K. CarrollTitle PresidentAddress 233 Main Ave. East - Twin Falls, ID 83301

Buyer

Co-Buyer

Additional Security: To secure the performance of this obligation, Buyer grants to Seller a security interest in the property being purchased and as described above, including money received if this property is sold, and any accessories which may be acquired at a later time, and any additions and replacements acquired within ten days after Seller gives value. As additional security, Buyer grants Seller a security interest in the following property:

This security interest shall also secure all other and future debts Buyer may have with Seller.

Use And Ownership: Buyer will keep the collateral in good order and repair and will not waste or destroy any part of the collateral. Buyer will not use or permit anyone to use the collateral in violation of any federal, state or local law or regulation. Seller may inspect and examine the collateral at any reasonable time, wherever located.

Buyer will not sell or otherwise attempt to transfer the collateral or any interest therein without Seller's written consent. Buyer agrees to execute any documents and do whatever may be required to create, perfect and continue Seller's interest in the collateral, all at Buyer's expense, including the delivery to Seller of any certificate of title now or hereafter existing on the collateral, which title shall vest in Seller's interest. Unless Seller consents in writing, Buyer will keep the collateral free from, and will not create or permit the existence of, any adverse lien, security interest or encumbrance (other than that created herein) on the collateral.

Buyer warrants that except as noted herein, any property traded in (if any) is free from any lien, encumbrance or other charges, and breach of this warranty shall be a breach of this Agreement. If the property purchased is a mobile home, Buyer warrants that a non-removable option declaring the home to be real property has not been recorded.

Insurance & Taxes, Etc.: Buyer shall keep the collateral continuously insured for the full insurable value against physical damage from such causes as Seller may require. Buyer may choose the person through which the insurance is to be obtained subject to Seller's right to reject an insurer for reasonable cause. If insurance is purchased through seller, the cost will be written in Item No. 10. If the collateral is lost or damaged, the proceeds may be used to replace or repair the collateral, or repay the loan. No liability insurance is provided.

Buyer agrees to pay all taxes, assessments and fees. Seller may, but is not required to, discharge any taxes, liens or encumbrances at any time levied or placed on the collateral, pay for insurance on the collateral if Buyer fails to provide adequate coverage, pay for the maintenance and preservation of the collateral, pay any filing or recording fees, or any other charges payable by Buyer. Buyer agrees to repay the amounts paid with interest at the contract rate until repaid. The amount may be payable on demand, or by adding to the cost of the remaining balance and increasing each payment or requiring a larger final payment. The rights granted by this paragraph are not a waiver of any other rights of the Seller arising from breach of any of Buyer's covenants.

If credit life is purchased, the term begins on the date of the Agreement and continues for the term stated on the policy.

1. **PLEASE TYPE THIS FORM IN BLACK**
2. Enclose filing fee of \$5.00 if form is typed, or \$10.00 if not typed. For attachments, add \$1.00 per printed page.
3. File only the original. Make copies for your file. The original will be returned as your acknowledgment.
4. Enter only one debtor's name or assumed name per debtor block exactly as it is to be indexed. If more than four names, use an attached sheet. Enter individual debtor names: Last, First Middle Title; e.g. Smith, John Alan Jr.
5. When the obligation has been satisfied, complete the Termination Statement and return the original to the filing officer.

Form approved by Pete T. Canestraro, Secretary of State, UCC Division, Statehouse, Boise, ID 83720. Ph 208-334-3191.

Debtor #1 (Last name, first, middle, title & mailing address)

Stewart II, Austin E.
291 3rd Ave. S
Ketchum, ID 83340

Debtor #3

Debtor #2

Debtor #4

Secured Party and Address

B S & R Equipment
P.O. Box 103
Twin Falls, ID 83303-0103

Assignee and Address

West One Bank, Idaho
P.O. Box 509
Twin Falls, ID 83303-0509

Mailing Address for acknowledgement, if not Secured Party

West One Bank, Idaho
P.O. Box 509
Twin Falls, ID 83303-0509

Check if Covered

☐ Products of collateral are also covered

If one of the following boxes is checked, the secured party may sign the financing statement. The collateral described herein is:

- ☐ Brought into this state already subject to a security interest in another jurisdiction.
- ☐ Subject to a security interest in another jurisdiction, and the debtor's location has changed to this state.
- ☐ Proceeds of the original collateral described above in which a security interest was perfected.
- ☐ The subject of a financing statement which has lapsed.
- ☐ Subject to a security interest perfected under a prior name or identity of the debtor.

This financing statement covers the following types or items of property:

(If this is a fixture, timber or mineral filing to be recorded with the County Recorder, include legal description and name of record owner, if required.)

1 ea Crathco Disp. D25-4 3 gal. tanks, 1 ea Scotsman SCE170A Ice Machine, 1 ea Star 502F
2 ea 3 Comp. P434 LA Blue/White, 1 ea Lincoln Tomato King 043N, 3 ea Cambro DR Dunnage
Rack, Metro Seal posts & shelves, 2 ea Hobart LX18H Dishwasher, 1 ea Veg Sink, 3 ea Bus
Carts, 2 ea Vollrath HT 7 Warmers, 1 ea Amana RCS710B Microwave, Smallwares Invoices:
215005, 215006, 218227, 218513, 218557, 218558, 218560, 219049, 219202

Signature(s) of Debtor(s)

Filing Office Use Only

Secured Party Signature

TERMINATION STATEMENT-The Secured Party no longer claims a security interest.

COPY

U.S. COURTS

IN THE UNITED STATES BANKRUPTCY COURT FOR THE DISTRICT OF IDAHO

REC'D _____ FILED du
CAMERON S. BURKE
CLERK IDAHO

IN RE:)	
)	
SAWTOOTH ENTERPRISES, INC.	)	CHAPTER 11
)	
	)	CASE NO. 96-03050
)	
	)	MOTION TO LIFT STAY AND TO
	)	TRANSFER THIRD-PARTY PROPERTY
	)	IN DEBTOR'S POSSESSION
<u>DEBTOR(S)</u>)	

TO THE ABOVE-NAMED COURT, THE DEBTOR, AND U.S. TRUSTEE:

PLEASE TAKE NOTICE, that, the undersigned, pursuant to 11 USC 362(d) and in accordance with LBR 4001.2, moves the court for relief from the automatic stay for the purpose of recovering property owned by the moving party, which is currently in the possession of the debtor.

Austin E. Stewart, II ("MR. STEWART"), a former officer of Debtor Sawtooth Enterprises, Inc., is the owner of record of certain restaurant equipment ("the equipment") currently in the possession of the debtor. The equipment, sold for a total of \$14,448.62 was purchased in February, 1996 for use by the debtor. At the time, Mr. STEWART and the debtor agreed that MR. STEWART would use his personal credit to apply for a loan with West One Bank to purchase the equipment, and the debtor would make the \$2,948.34 down payment and all installment payments until paid off in March, 1997.

The debtor made the down payment in February, 1996. Through September, 1996, debtor made regular payments of \$1,039 per month toward this obligation, as well as making one additional payment in November. Currently, approximately \$6,500 remains outstanding on West One Bank's loan for the equipment, and the payments are approximately 75 days past due. This obligation is now Loan

#15900187076148001 with US BANK, successor in interest to West One Bank.

MR. STEWART is the owner of record of this equipment, SEE, Contract dated 2/28/96 and attached UCC-1 financing statement, copies of which are attached as Exhibit "A" to this motion and made a part thereof. MR. STEWART's interest in the property is not being adequately protected by debtor's continued possession of the equipment. Debtor seeks to take possession of the equipment for the purpose of a voluntary repossession, returning it to the dealer for resale to pay off the balance of the installment loan. The equipment is not currently necessary for debtor's reorganization, since debtor has suspended operations, and since none of the equipment is essential in producing debtor's basic product - bagels. Therefore, MR. STEWART is entitled to possession of the equipment owned by him in order to satisfy his outstanding obligation, or, in the alternative, for debtor to satisfy all outstanding interest, principal, fees and costs associated with the loan and thereby retain the equipment.

As required by LBR 4001.2(b), the aforementioned restaurant equipment is itemized and valued as follows:

- | | |
|--|---------------------|
| 1. 1 ea. Crathco Disp. D25-4(3 gal. tank): | \$500 |
| 2. 1 ea. Scotsman SCE170A Ice Machine: | \$1,000 |
| 3. 1 ea. Star 502F French Plate Burner: | \$450 |
| 4. 2 ea. 3 Comp. P434 LA Dry Bins: | \$300 (\$150x2) |
| 5. 1 ea. Lincoln Tomato King 043N: | \$100 |
| 6. 3 ea. Cambro Dunnage Racks: | \$450 (\$150x3) |
| 7. Metro Seal Posts & Shelves: | \$300 |
| 8. 2 ea. Hobart LX18H Dishwasher: | \$3,000 (\$1,500x2) |
| 9. 1 ea. Veg. Sink: | \$150 |
| 10. 3 ea. Bus Carts: | \$225 (\$75x3) |
| 11. 2 ea. Vollrath HT7 Warmers: | \$50 |
| 12. 1 ea. Amana RCS710B Microwave: | \$150 |
| 13. Smallwares invoices (See UCC-1; Ex.A) | \$300 |

The values stated are estimates, and may change based on the actual resale price secured by the dealer, BS&R Equipment Co., of Twin Falls, ID. The method used to value the items was an approximation of 40-50% of the original purchase price of the equipment, which is reasonable in light of the relatively short period of time the equipment has been in service. Documentation evidencing the obligation and security interest, as required by LBR 4001.2, has been provided as Exhibit "A" to this motion.

THEREFORE, MR. STEWART requests relief as follows:

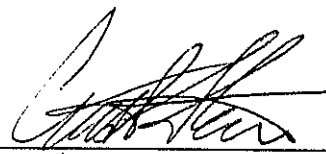
For relief from the automatic stay pursuant to 11 USC 362(d) with respect to any and all actions in federal or state court to recover possession of the equipment;

For an order directing the debtor-in-possession to allow MR. STEWART, or his agents, to physically remove the equipment from debtor's possession, or, in the alternative, for payment by the debtor of any and all interest, principal, fees and costs to fully satisfy the loan secured by the equipment;

In the event of physical repossession of the equipment by MR. STEWART, for an order directing reimbursement of MR. STEWART out of the debtor's estate of all costs and fees associated with said repossession as well as reimbursement out of the debtor's estate for any and all damage or casualty to the equipment caused while in the debtor's possession;

For any other relief the court deems proper.

12-9-96


Austin E. Stewart, II
PO Box 6097
Ketchum, ID 83340
(208) 726-2009

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on the 9th day of December, 1996, I caused a true and correct copy of the MOTION TO LIFT STAY, ETC., to be forwarded with all required charges prepaid, by the method(s) indicated below, to the following person(s):

Moffat, Thomas, et. al.
Debtor's Counsel
P.O. Box 829
Boise, ID 83701-0829


X Hand Deliver
 U.S. Mail
 FAX
 Federal Express

Sawtooth Enterprises, Inc.
3559 W. Wright St.
Boise, ID 83705

X Hand Deliver
 U.S. Mail
 FAX
 Federal Express

Assistant U.S. Trustee
PO Box 110
Boise, ID 83701

X Hand Deliver
 U.S. Mail
 FAX
 Federal Express


AUSTIN STEWART

CERTIFICATE OF SERVICE

11th

I HEREBY CERTIFY that on the ~~24th~~ day of December, 1996, I caused a true and correct copy of the EXHIBIT .A. TO MITION TO LIFT STAY, etc, to be forwarded with all required charges prepaid, by the method(s) indicated below, to the following person(s):

Moffat, Thomas, et. al.
Debtor's Counsel
P.O. Box 829
Boise, ID 83701-0829

X Hand Deliver
 U.S. Mail
 FAX
 Federal Express

Sawtooth Enterprises, Inc.
3559 W. Wright St.
Boise, ID 83705

X Hand Deliver
 U.S. Mail
 FAX
 Federal Express

Assistant U.S. Trustee
PO Box 110
Boise, ID 83701

X Hand Deliver
 U.S. Mail
 FAX
 Federal Express


AUSTIN STEWART